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## WISCONSIN LEGISLATIVE COUNCIL AMENDMENT MEMO

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<b>2003 Assembly Bill 898</b>	<b>Assembly Substitute Amendment 2</b>
<i>Memo published: March 10, 2004</i> <span style="float: right;"><i>Contact: Nick Zavos, Staff Attorney (266-1308)</i></span>	

Chapters 421 through 427, Stats., are known as the Wisconsin Consumer Act (WCA). Under **current law** “rent-to-own” transactions are subject to the WCA.

**2003 Assembly Bill 898** exempts rent-to-own transactions from the WCA and creates a new chapter 430, Stats., to regulate such transactions. The bill uses the defined term “rental-purchase transactions.” A “rental purchase transaction” is an agreement between a rental-purchase company and a lessee: (a) for the use of property primarily for personal, family, or household purposes; (b) that has an initial term of four months or less and is automatically renewable with each payment; (c) that does not obligate or require the lessee to renew the agreement beyond the initial term; and (d) that permits, but does not obligate, the lessee to acquire ownership.

**Assembly Substitute Amendment 2** makes a number of technical nonsubstantive changes to the bill and retains all of the substantive changes contained in Assembly Substitute Amendment 1. First, the amendment moves all of the provisions governing rental-purchase transactions into the WCA. Many of the requirements and exemptions remain the same as a result of this change; they are simply placed in new subchapters in the WCA as opposed to being in a chapter separate from the WCA.

The amendment creates subch. VI in ch. 422. That subchapter contains all of the provisions that were included in subchs. V, VI and VII of ch. 430 in the bill. Those provisions include, among others, the disclosure requirements, required provisions in a rental-purchase agreement, authority for the Division of Banking in the Department of Financial Institutions to promulgate rules relating to unconscionable conduct, the right to reinstatement, and the right to cure. Subchapter IX in the bill, relating to civil actions and class actions, is recreated by the amendment as a new subchapter in current ch. 425. The licensing provisions contained in subch. IV of ch. 430 in the bill are recreated as a new subch. in current ch. 426. The provisions in the bill that concern prohibited debt collection practices are not carried over into the substitute amendment. Instead, the substitute amendment states that current ch. 427 in the WCA will govern. That chapter has virtually identical requirements to the bill.

The substitute amendment modifies how a rental-purchase company can conduct self-help repossession. The **bill** prohibits a rental-purchase contract from containing a provision that authorizes the rental-purchase company to enter the lessee's premises without the lessee's contemporaneous permission, or to commit a breach of the peace in repossessing the property. Further, under the bill, a rental-purchase company's request for voluntary surrender of the property is subject to the prohibitions on certain collection practices. The **substitute amendment** retains those requirements and adds another. Under the substitute amendment, a rental-purchase company must make a reasonable effort to contact the lessee 48 hours before it takes or attempts to take the property. "Reasonable effort" is defined as a telephone conversation, written notice sent by certified mail, or at least one attempted telephone conversation on each of two consecutive days.

The **substitute amendment** includes rental-purchase companies in the WCA's prohibition on false, misleading, or deceptive advertising.

The **substitute amendment** places a cap on the cash purchase price. Under the substitute amendment, the cash price may not exceed twice the actual price paid by the rental-purchase company to the manufacturer or wholesaler, including any applicable freight charges.

The substitute amendment creates a new formula for determining the price of exercising an early purchase option. Under the **bill**, a lessee may acquire ownership at any time after the initial rental period by paying the original cash price minus at least 50% of all of the rental payments made by the lessee. Under the **substitute amendment** a lessee may acquire ownership at any time after the initial rental period by paying an amount not to exceed the cash price of the property multiplied by a fraction that has as its numerator the number of payments remaining under the agreement and as its denominator the total number of payments.

On March 9, 2004, the Committee on Joint Finance adopted Assembly Substitute Amendment 2 by a vote of Ayes, 15; Noes, 1.

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